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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,820	06/21/2006	Franklin Selgert	03-1111-B	8743
20306 7590 12/10/2008 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER KELLY, RAFFERTY D				
ART UNIT 2876		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/583,820

**Applicant(s)**

SELGERT, FRANKLIN

**Examiner**

RAFFERTY KELLY

**Art Unit**

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

Amendment filed on 8/13/08 has been acknowledged and entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1-2, 4, 6-8, 10-13, 15, 17-19, and 21-22 are rejected under 35

U.S.C. 102(a) as being anticipated by Schon (Publication No.: US 2005/0071234 A1).

Re claim 1, Schon discloses a system for triggering a first device [611] and logging the triggering, the system comprising a RF chip (cart reader and tag, Fig. 6C) of a first party, the first device [611] comprising communication means for receiving an RF signal (cell phone [611] communicates with reader and item identification is transmitted from phone to cart device, p. 8, para. 0083-0088) from the RF chip (cart reader and tag), the first device [611] further comprising communication means for communicating with a network or server of a second party, wherein the first device [611] comprises means to start communicating with the network or server (p. 8, para. 0083-0085, devices are wirelessly connected with each other via RF) only after receiving the RF signal, the first device [611] comprises means for sending an enabling ID to the RF chip (cart reader and tag) (phone transmits shopping list containing item identification to cart reader and tag device), the RF chip comprises means for receiving the ID, and the RF chip (tag of tagged item) comprises memory for storing the ID (Fig. 6A-C, Fig. 7, cart

stores list of items and logs and track when those items have been physically put in cart, 8. 8, para. 0088, p. 9, para. 0092).

Re claim 12, Schon discloses a method for triggering a first device [611] and logging the triggering, the method comprising the steps of receiving in the first device [611] a RF signal from a RF chip (cart reader and tag, Fig. 6C) of a first party, the first device [611] starting communicating with a network or server of a second party after receiving the RF signal (devices are wirelessly connected with each other via RF, p. 8, para. 0083-0088), sending an ID from the first device [611] to the RF chip (cart reader and tag), receiving the ID in the RF chip (cart reader and tag), and storing the ID in a memory of the RF chip (cart reader and tag) (p. 8, para. 0088, p. 9, para. 0092).

Re claims 2 and 13, Schon discloses the RF chip (cart reader and tag) comprises means for reading the ID from the memory and sending the ID to a second device (transmit log of items to the register, p. 9, para. 0097).

Re claims 4 and 15, Schon discloses the RF chip (cart reader and tag) and the second device are wirelessly connectable, to send the ID (p. 9, para. 0097).

Re claim 6 and 17, Schon discloses billing information is created based on the ID received in the second device (p. 9, para. 0097).

Re claim 7, Schon discloses a system for triggering a first device [662] and logging the triggering (p. 9, para. 0092), the system comprising a RF chip (tag of tagged item) of a first party, the first device [662] comprising communication means for receiving an RF signal ([662] is a reader/writer and tag and therefore contains conventional receiving and transmitting means) from the RF chip (tag of tagged item) (p.

9, para. 0092), the first device [662] further comprising communication means for communicating with a network or server of a second party (computer and portable electronic devices are all in communication with each other, p. 8, para. 0082-0088), wherein the first device [662] comprises means to start communicating with the network or server (network, Fig. 1, p. 3, para. 0038-0039) after receiving the RF signal, the RF chip comprises means for sending an ID to the first device, and the first device comprises for receiving the ID (Fig. 6A-C, Fig. 7, p. 9, para. 0092).

Re claim 18, Schon discloses a method for triggering a first device [662] and logging the triggering (p. 9, para. 0092), the method comprising the steps of receiving in the first device [662] a RF signal from a RF chip (tag of tagged item) of the first part, the first device [662] starting communicating with a network or server (p. 8, para. 0082-0088, p. 3, para. 0038-0039) of a second party after receiving the RF signal, sending an ID from the RF chip (tag of tagged item) to the first device, and receiving the ID in the first device [662] (Fig. 6A-C, Fig. 7, p. 9, para. 0092).

Re claims 8 and 19, Schon discloses the first device [662] comprises a memory for storing the ID ([662] logs item, keeping track of all items in the cart, p. 9, para. 0092) and the first device [662] comprises means for reading the ID from the memory and sending the ID to a second device ([662] then transmits the log of items to the register, p. 9, para. 0097).

Re claims 10 and 21, Schon discloses the first device [662] comprises means for sending on the ID to a second device (reader/tag of the cart transmits log to register, p. 9, para. 0097).

Re claims 11 and 22, Schon discloses billing information is created based on the ID received in the second device (total is based on items with the tag ID so proper charge is made, p. 9, para. 0097, Fig. 7).

Re claim 13, Schon discloses the step of reading the ID from the memory and sending the ID from the RF chip (tagged item) to a second device.

Re claim 15, Schon discloses sending the ID from the RF chip (tagged item) to the second device via a wireless connection.

Re claim 17, Schon discloses the step of creating billing information based on the ID received.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5, 9, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schon as applied to claims 2, 8, 13, and 19 above, and further in view of Attia (Publication No.: US 2002/0016750 A1). The teachings of Schon are stated above.

Re claims 5, 9, 16, and 20, Schon fails to teach a means to clear the memory after sending the ID.

Attia teaches a means to clear the memory after sending the ID (p. 2-3, para. 0019-0020).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Schon with Attia so that previous item IDs from previous purchases aren't accidentally repurchased when the system is used again, and in a public setting to provide privacy so that the next user of the device does not have access to the previous user's information.

3. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schon as applied to claims 2 and 13 above, and further in view of Blossom (Publication No.: US 2003/0019942 A1). The teachings of Schon are stated above.

Schon fail to disclose the RF chip and the second device are physically connectable.

Blossom teaches an RF chip and device are physically connectable (Fig. 1, p. 1, para. 0003, p. 2, para. 0018, 0025).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Schon with Blossom because making an RF chip contact or contactless connectable to a device was known in the art and would yield predictable results.

### ***Response to Arguments***

Applicant's arguments filed 8/13/08 have been fully considered but they are not persuasive.

Regarding the argument that Schon does not teach the RF chip of the first party, this argument is not found to be persuasive. Schon teaches that the portable electronic interface can be different arrangements for communication, and Schon further teaches that the cell phone (611) can communicate via an RF link. Thus, one of the arrangements for communication between the cart and the cell phone is RFID.

Regarding the argument that Schon does not teach the first device communicating only after receiving the RFID signal, this argument is not found to be persuasive. In order for the present invention to be functional, the cart and the phone must acknowledge each other before the shopping list is communicated to the cart. This is a standard technique used in RFID tag communication, and further, if this initial acknowledgement of each other did not occur, multiple shopping lists could be transmitted to a single cart simply by proximity. A customer walking by another customer's cart could unintentionally send their shopping list to the other customer's cart. Due to the broad nature of the language used in the claims, this feature can be given a fairly broad interpretation, and as such, Schon teaches this feature.

Regarding the argument that Schon does not teach the first device sending an enabling ID to the RF chip, this argument is not found to be persuasive. Again, the broad nature of this aspect of the claims allows for different interpretations than perhaps what is intended. In the present case, Schon teaches transmitting the IDs for various shopping list items, and these IDs enable the cart to begin tracking the customer's order and shopping. Thus, Schon teaches the limitations of this aspect of the claims.



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAFFERTY KELLY whose telephone number is (571)270-5031. The examiner can normally be reached on Mon. - Fri. 800-1730 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rafferty Kelly/  
Examiner, Art Unit 2876  
12-4-08

/Michael G Lee/  
Supervisory Patent Examiner, Art Unit 2876